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FISCAL IMPACT STATEMENT

LS 7073

BILL NUMBER: SB 343

NOTE PREPARED: Jan 4, 2009

BILL AMENDED:

SUBJECT: Qualified Settlement Offers.

FIRST AUTHOR: Sen. Becker

FIRST SPONSOR:

BILL STATUS: As Introduced

**FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill increases from \$1,000 to \$5,000 the amount of attorney's fees, costs, and expenses that may be awarded by a court under certain circumstances when a qualified settlement offer in a civil action is rejected.

Effective Date: July 1, 2009.

Explanation of State Expenditures: The state could save money in two ways with this bill. First, if the state is a defendant in a lawsuit, it may be able to offer less money to settle a case. This is because the plaintiff risks losing more money if the case goes to trial and the court awards an amount that is lower than the settlement offer. Second, the Office of the Attorney General could avoid having to assign attorneys to represent the state of Indiana in a trial rather than working on other assignments.

Background— A qualified settlement offer is sometimes made in civil cases. In the offer, one party proposes to the other party a settlement to resolve all issues in a case. When a qualified settlement offer is made and not accepted, the party rejecting the offer must ultimately obtain a judgment from the court that is greater than the settlement offer, or the offering party is entitled to attorney's fees, costs, and expenses in an amount not to exceed \$1,000.

This bill could increase a responding party's willingness to accept certain offers if the anticipated award could be reduced by \$5,000 instead of \$1,000. A party's willingness to accept a qualified settlement offering is determined in part by how much the award could be reduced.

Assuming that parties would more likely agree on a settlement when the amount that the party could lose is a greater proportion of the amount that could be awarded, increasing the amount that the party could lose from \$1,000 to \$5,000 could increase the willingness of some parties to settle the case before going to either a bench or jury trial.

As an illustration, LSA examined the tort payments that the state of Indiana paid as a result of 104 lawsuits in CY 2007. Of the tort cases reported in CY 2007, 19 cases involved awards that were between \$1,000 and \$5,000.

Number of Lawsuit in Cy 2007 in Which the State of Indiana Was a Defendant and Amount Paid by State	
<u>Amount Paid</u>	<u>Number of Cases</u>
More than \$500,000	2
Less than \$500,000 and more than \$100,000	20
Less than \$100,000 more than \$50,000	11
Less than \$50,000 more than \$25,000	5
Less than \$25,000 more than \$10,000	22
Less than \$10,000 more than \$5,000	8
Less than \$5,000 more than \$1,000	19
Less than \$1,000	<u>17</u>
Total Number of Lawsuits	<u>104</u>

Explanation of State Revenues:

Explanation of Local Expenditures: See *Explanation of State Expenditures*. If more cases are resolved using qualified settlement offerings, then fewer civil tort cases might go to either a jury or bench trial. Counties pay the costs of court operations.

Jury trials are generally the most expensive way to resolve a case since the cost of a six-member jury (IC 34-36-3-1) could cost an additional \$180 per day for each day that a jury is impaneled.

Of the tort claims disposed in CY 2007, 360 cases were disposed by a jury, 227 cases were disposed by a bench trial, and 585 cases were disposed by a bench disposition (which include settled cases). The amount of money awarded in each of these cases is not reported, but is generally more than \$6,000 because the case was filed in civil court rather than in small claims.

Explanation of Local Revenues:

State Agencies Affected: Office of the Attorney General.

Local Agencies Affected: Trial courts; local governments involved in civil lawsuits.

Information Sources: *Annual Tort Report Detail*, CY 2007, Office of the Attorney General; definition of qualified settlement offer – <http://www.smithrolfes.com/indianaothers.htm>

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